Ban on capitation fee

414. SHRI RAMA MUNI REDDY SIRIGIREDDY: Will the Minister of HUMAN RESOURCE DEVELOPMENT be pleased to state:

(a) whether it is a fact that recently the Supreme Court has banned the private professional colleges from charging capitation fee;

(b) if so, the details of the judgement;

(c) whether it is also a fact that the Supreme Court appointed two committees, each headed by a retired High Court, Judge, to look into the fee structure and supervise the admission procedures; and

(d) if so, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DR. VALLABHBHAI RAMJIBHAI KATHIRIA):(a) to (d) Yes, Sir. The Hon'ble Supreme Court in its Judgement delivered on 14th August, 2003 interpreting the Eleven Judge Bench Judgement in *T.M.A. Pai Foundation Case* held that capitation fees cannot be charged by the educational institutions. The Hon'ble Court directed that the respective State Government's concerned authority shall set up, in each State, two Committees, each headed by a retired High Court Judge to look into the fee structure and to ensure that the tests conducted by the association of colleges are fair and transparent, respectively.

Education Code for Kendriya Vidyalayas

415. SHRI GAYA SINGH: Will the Minister of HUMAN RESOURCE DEVELOPMENT be pleased to state:

(a) whether Article 81(e) has been inserted in education code for Kendriya Vidyalayas in August, 2003;

(b) if so, the salient features thereof and the reasons therefor; and

(c) whether it has since been kept in abeyance; and if so, the reasons therefor?

THE MINISTER OF STATE IN THE MINISTRY OF HUMAN RESOURCE DEVELOPMENT (DR. VALLABHBHAI RAMJIBHAI KATHIRIA):(a) As informed by Kendriya Vidyalaya Sangathan, a

notification for insertion of article 81 (e) in the Education Code for the Kendriya Vidyalayas was issued vide KVS O.M. No. F. 11-12/2003/KVS (Vig.) dated 6th August 2003.

(b) The provisions of the Article envisage a transparent as well as totally insulated mechanism, for taking an un-adulterated direct feedback from the students, on the fact of dereliction of duty as defined by the Article. It also provides for corrective mechanism by giving notice and chance to improve to those teachers/employees who are found responsible for dereliction of duty after the first assessment, by the students. The infliction of the major penalty of removal from service is also provided for, after the second assessment by students upon those who do not improve even after being given a chance after first assessment by the students. Principle of natural justice is followed by giving them a show cause notice before inflicting penalty. Provision for appeal also exists within the framework of the Article.

As per KVS, insertion of this article was necessitated because in a school situtation, the relationship of the student *vis-a-vis* the teachers and other employees of the school with whom he directly interacts, is an unequal relationship because of which the misconduct committed by any teaching/non-teaching employee, wherein the prime witness or the victim is the student, cannot be normally established by following the provisions of the CCS (CCA) Rules, 1965. In this unequal relationship requiring the student to come forward openly with his evidence and allowing the teacher/employee to cross-examine him makes the child susceptible to retribution by the said teacher/employee or their colleagues. Since the students cannot be expected to take such a risk, these misconducts, some of which are crucial for the normal functioning of the school, go unpunished leading to their further commission with impunity. As it was felt necessary to stop the commission of such misconducts for the proper functioning of the school, the procedure laid down by the CCS (CCA) rules, 1965 was to be dispensed with for establishing the misconduct.

(c) KVS has decided to re-examine this issue.

National Policy of Education

416. SHRI KARNENDU BHATTACHARJEE: Will the Minister of HUMAN RESOURCE DEVELOPMENT be pleased to state: